

REMARKS

Claims 8-11, 14, 21, 24, 27, and 31 are cancelled. Claims 1, 12, 15, 22, 25, 28, 29 and 32 have been amended. Claims 1-7, 12-13, 15-20, 22-23, 25-26, 28-30 and 32 remain in the application. The actions taken are in the interest of expediting prosecution and with no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art. Moreover, the amendment or cancellation of claims herein is without prejudice to pursuing claims of different scope by way of continuing Application. Reconsideration of this application is respectfully requested.

U.S.C. 101

Claims 1-32 are rejected under 35 U.S.C. § 101 because the claimed subject matter is directed to non-statutory subject matter. The Examiner asserts that the use of the term “permitting” in independent claims 1, 9, 12, 15, 22, 25, 28, 29 and 32 fails to disclose a concrete step of actually performing an action. Further the Examiner asserts that claim 9 is claiming software and not the functionality of the software. Independent claims 1, 12, 15, 22, 25, 28, 29 and 32 have been amended to replace “permitting” with actually “executing” an executable, which provides a concrete, tangible and useful result. Applicants believe this amendment directs the claims to statutory subject matter and overcomes this rejection. Claim 9 has been cancelled, rendering this rejection moot.

U.S.C. 112, second paragraph

Claims 1-32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner asserts that in independent claims 1, 9, 12, 15, 22, 25, 28, 29 and 32, the phrase “...the real-time kernel permitting execution...” is failing to point out and distinctly claim the invention. Independent claims 1, 12, 15, 22, 25, 28, 29 and 32 have been amended to replace “permitting” with actually “executing” an executable, which Applicants believe overcomes this rejection.

U.S.C. 102(b)

Claims 1, 2, 4-16 and 18-32 are rejected under U.S.C. §102(b) as being anticipated by “Win32: A suitable Standard for Real-Time Embedded Systems?” by Peter Peterson (hereinafter Peterson). Applicants respectfully traverse this rejection.

Applicant’s independent claims 1, 12, 15, 22, 25, 28, 29 and 32, recite, among other things, the real-time kernel executing the executable in an emulated WIN32 execution environment, wherein the emulated WIN32 execution environment utilizes an emulated subset of WIN32 execution environment services, and wherein the real-time kernel is *single threaded*.

Peterson teaches an embedded cross development system (RTTarget-32) that can run Win32 console mode applications. The real-time kernel RTKernal-32 extends RTTarget-32’s Win32 support with *multithread functions* to create and manage threads... (page 65 under “Example: RTTarget-32 and RTKernal-32 from On Time”) and (page 66 under “Scalability”). So, it is clear that the system taught by Peterson uses the multithreaded aspect of Windows, and does NOT use a single thread as recited in Applicant’s amended independent claims.

The Examiner alleges that Peterson teaches the use of a single thread, (page 65). Applicants respectfully disagree. Peterson discusses prior art options that included running Windows NT under another real-time system, where NT is run as a single task (page 65 per Examiner’s reference). However, Peterson states that this option is disadvantageous because then real-time tasks run completely independent from the Windows world, which is too complex and hinders software development. Therefore, Peterson is NOT teaching a real-time kernel that is single threaded, but is instead teaching a kernel that is multithreaded because of the problems with the prior art. Thus, Peterson is teaching away from Applicants recited limitations.

Further, while Peterson teaches an emulation library (page 66 under “Scalability”), Peterson does not teach or suggest an “emulated Win32 execution environment” as claimed by Applicants. On the contrary, Peterson merely teaches that RTTarget-32 is a “real-time extension to the Win32 API, which is NOT providing an “emulated Win32 execution environment.”

It is clear that Peterson does not teach or suggest the recited limitations in Applicant’s independent claims, including “the real-time kernel executing the executable in an emulated WIN32 execution environment, wherein the emulated WIN32 execution environment utilizes an emulated subset of WIN32 execution environment services, and wherein the real-time kernel is

single threaded.” Therefore, Peterson cannot anticipate Applicant’s independent claims. Applicant’s therefore respectfully request that the rejection be withdrawn and the claims proceed to allowance. The dependent claims are deemed allowable for the same reason as the independent claims.

U.S.C. 103

Claims 3 and 17 are rejected under U.S.C. §103(a) as being unpatentable over Peterson. As shown above, Peterson does not teach or suggest Applicant’s recited limitations “the real-time kernel executing the executable in an emulated WIN32 execution environment, wherein the emulated WIN32 execution environment utilizes an emulated subset of WIN32 execution environment services, and wherein the real-time kernel is *single threaded*,” which are found in independent claims 1 and 15. Claim 3 depends from claim 1, and claim 17 depends from claim 15. Therefore, Peterson cannot make obvious dependent claims 3 and 17. Applicant’s respectfully request that the rejection be withdrawn and the claims proceed to allowance.

Prior Art

The references cited but not relied upon are believed not to anticipate or make obvious Applicants’ invention.

Summary

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant’s attorney or agent at the number indicated

below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

Accordingly, this application is believed to be in proper form for allowance and an early notice of allowance is respectfully requested.

Please charge any fees associated herewith, including extension of time fees, to 502117, Motorola, Inc.

Respectfully submitted,

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